IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No:	10/562,655
Applicant:	Kenjiro Hamanaka
Filed:	June 13, 2006
Title:	LENS-ATTACHED LIGHT-EMITTING ELEMENT AND METHOD FOR MANUFACTURING THE SAME
TC/A.U.:	2811
Examiner:	Jesse Y. Miyoshi
Docket No.:	NSG-258US
Confirmation No.	6283

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

S I R :

This is in response to the Restriction Requirement stated in the Office Letter dated **June 12, 2009**.

The Examiner is requiring an election between: Embodiment 1 shown in figures 4A, 4B, 13A-G (claims 1-3, 5-9, 16, 21-26 and 31-25); Embodiment 2 shown in figures 4A, 4B, 16A-G (claims 1-3, 5-9, 11-15, 17-22, 27-34 and 36); Embodiment 3 shown in figures 7, 13A-G (claims 1, 2, 4-8, 10-15, 16, 21-26, 31-35 and 37) and Embodiment 4 shown in figures 7, 16A-G (claims 1, 2, 4-8, 10-15, 17-22, 27-34 and 37). Applicant elects to prosecute the claims corresponding to Embodiment 1 shown in figures 4A, 4B, 13A-G (i.e. claims 1-3, 5-9, 16, 21-26 and 31-35). This election is made with traverse.

Applicant traverses the Election Requirement because the showing that the claims of the different species are patentably distinct is not sufficient under PCT Rule 13.

In particular, Pursuant to PCT Rule 13.2,

> [t]he requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

In the subject Election Requirement, it is admitted that claims 1, 2, 5-8 and 11-15 are generic to all of the claims and, thus, recite a technical features that are

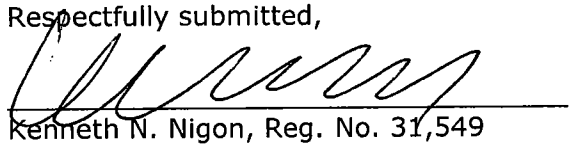
common to all of the claims. There is no assertion, however, that the common technical features of claims 1, 2, 5-8 and 11-15 are known in the prior art.

Pursuant to MPEP § 1850 (II), "if... there is a single general inventive concept that appears novel and involves [an] inventive step, then there is unity of invention and objection of lack of unity does not arise." Furthermore, As set forth later in the same section, "If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect to any of the claims that depend on the independent claims."

Thus, because claims 1, 2, 5-8 and 11-15 have been identified as generic and because no prior art references have been identified such that these claims are deemed not to be novel or not to involve an inventive step over such prior art references, these claims must recite common technical features that are common to all of the claim. Consequently, the Election Requirement is improper.

In view of the foregoing remarks, Applicant requests that the Examiner reconsider and withdraw the Election requirement.

Respectfully submitted,



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Dated: June 29, 2009

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